

REMARKS

This amendment is expected to require further consideration and/or search due to the substantive amendments and the experimental results provided. Accordingly, the amendment is being filed with a Request for Continued Examination (RCE).

The application is believed to be in condition for allowance at the time of the next Official Action.

Status of the Claims

Claims 1, 6, 8, 13, and 14 are amended.

Claims 1, 6, 8, 13 and 14 are amended remove the "icararin derivatives", and the independent claims 1, 13 and 14 have been further amended to remove sericoside.

Accordingly, claim 3 is cancelled without prejudice.

Claims 1, 2, 4, 6-10, 13 and 14 are pending.

Claims 6-8 and 10 are withdrawn as being drawn to non-elected groups or species.

Claim Objections

Claims 1, 2, 4, 9, 13 and 14 were objected to for informalities with respect to features, which are no longer recited.

Therefore, withdrawal of the objection is respectfully requested.

Claim Rejections-35 USC §112

Claim 14 was rejected under 35 U.S.C. §112, first paragraph, for not complying with the written description requirement. This rejection is respectfully traversed for the reasons below.

The position of the Official Action was that the specification does not provide any support regarding lotion.

However, "lotion" was recited in original dependent claim 4. As noted in MPEP 608.1(1), an original claim constitutes a clear disclosure of subject of subject matter.

Therefore, withdrawal of the rejection is respectfully requested.

Claim Rejections-35 USC §103

Claims 1, 2, 4, 9 and 13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over DI PIERRO WO 02/098436 ("DI PIERRO") in view of BERTINI CURRI et al. US 5,176,919 ("BERTINI CURRI") and SMITH, III et al. US 2003/0069618 ("SMITH"). This rejection is respectfully traversed for the reasons given below.

The position of the Official Action was that it would have been obvious to use the vasoactive agent visnadine from BERTINI CURRI to treat cellulite in DI PIERRO because BERTINI CURRI teaches visnadine is used for cosmetic treatment of defects caused by insufficient blood perfusion, which includes cellulite, as evidenced by SMITH.

However, starting from the DI PIERRO composition, one skilled in the art would not have contemplated selecting three active ingredients namely (a) escin/beta-sitosterol, (b) *Gingko biloba* dimeric flavonoids and (c) *Centella asiatica* triterpenes, and combining the same with different vasoactive components (visnadine or esculoside) to prepare the present anti-cellulite composition.

Looking at the file history of the US counterpart of DI PIERRO (U.S. Patent No. 7,476,392), which shares the same assignee as the present application, only the composition (a) + (b) + (c) + (d) ethyl ximeninate + (e) standardized coleus forskolii extract displays synergism. A signed declaration made by DI PIERRO that was presented in this US counterpart, which explains this synergism, is provided in the appendix of this amendment.

Thus, contrary to the presently claimed invention, DI PIERRO neither discloses nor suggests a synergistic composition based on the claimed three active ingredients: (a) a complex of escin/beta-sitosterol with phospholipids, (b) a complex of *Gingko biloba* dimeric flavonoids with phospholipids and (c) a complex of *Centella asiatica* triterpenes with phospholipids.

The appendix of this amendment also includes a Declaration Under Rule 132 by the named inventor of the present application, Dr. Ezio Bombardelli. This declaration is further to the one filed May 30, 2007, and it provides additional

experimental evidence that demonstrates the synergistic effect exerted by the active ingredients of the claimed composition.

That is, the data presented in the new declaration shows a "more than additive" anti-cellulite effect produced by two compositions according to the claimed invention, i.e., the composition described in example 5 of the specification and the same composition with esculoside in place of visnadin.

One would not have expected these synergistic properties as demonstrated in the declaration by the present inventor, since DI PIERRO teaches that such ingredients are active only in combination with the other ingredients (d) and (e). Indeed, one would have expected that a selection of only three of the ingredients from the whole combination of (a) to (e) would have disrupted the synergism, and, consequently, such a selection would have rendered the composition unsatisfactory for the intended purpose of DI PIERRO.

Therefore, the claimed invention is non-obvious in view of the proposed combination, and withdrawal of the rejection is respectfully requested.

Conclusion

In view of the amendment to the claims, the declarations provided in the appendix and the foregoing remarks, this application is in condition for allowance at the time of the

next Official Action. Allowance and passage to issue on that basis is respectfully requested.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future submissions, to charge any deficiency or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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APPENDIX:

The Appendix includes the following item(s):

- a 37 CFR 1.132 Declaration of Ezio Bombardelli
- a 37 CFR 1.132 Declaration by Franceso Di Pierro filed in the US counterpart of WO 02/098436 (U.S. Patent No. 7,476,392)